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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,953	08/30/2007	Ulrik Bruhn	36731-000087/US	6215
30593	7590	05/24/2010		
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER GUADALUPE, YARITZA	
			ART UNIT 2841	PAPER NUMBER
			MAIL DATE 05/24/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,953	<b>Applicant(s)</b> BRUHN, ULRIC	
	<b>Examiner</b> Yaritza Guadalupe-McCall	<b>Art Unit</b> 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/13/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                          |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                              | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/13/06;12/4/06</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 8 and 10 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Henry ( US 6,018,916).

With respect to claim 1, Henry discloses a distance piece ( 15 ) for obtaining and maintaining a given distance between two objects, the distance piece comprising a first wedge-formed element ( 3 ), and a second wedge formed element ( 2 ) comprising means ( 4, 6 and 7 ) for receiving the first wedge-formed element ( 2 ) so that the first and second wedge-formed elements ( 2 and 3 ) form a set of abutting surfaces wherein at least one of the wedge-formed elements comprise(s) friction increasing means ( 8 ) arranged on at least one of the abutting surfaces (See Figure 6).

Regarding claim 2, Henry sets forth a distance piece wherein the friction increasing means comprises serrated teeth ( 8 ) arranged on an abutting surface of the first wedge-formed element ( 3 ) and/or serrated teeth arranged on an abutting surface of the second wedge-formed element ( 2 ).

In regards to claim 3, Henry teaches a distance piece wherein the serrated teeth ( 8 ) arranged on the first wedge-formed element ( 3 ) are adapted to engage with the corresponding serrated teeth ( 6 ) arranged on the second wedge-formed element ( 2 ).

With regards to claim 4, Henry shows a distance piece wherein the receiving means ( 4 ) of the second wedge-formed element ( 2 ) comprises at least one keyway ( 4 ).

Regarding claim 5, Henry also discloses a distance piece wherein the first wedge-formed element ( 3 ) comprises at least one key ( 5 ) adapted to engage with the at least one keyway ( 4 ) of the second wedge-formed element ( 2 ).

In regards to claim 6, Henry further teaches a distance piece wherein the first wedge-formed element ( 3 ) further comprises a flexible element ( 7, 8 ) arranged on a surface thereof, the flexible element being adapted to maintain the first wedge-formed element ( 3 ) in a fixed relationship with the object abutting the first wedge- formed element.

With respect to claim 7, Henry sets forth a distance piece wherein the second wedge-formed element ( 2 ) further comprises a flexible element ( 6 ) arranged on a surface thereof, the flexible element being adapted to maintain the second wedge-formed element ( 2 ) in a fixed relationship with the object abutting the second wedge- formed element ( 2 ).

Regarding claim 8, Henry discloses a distance piece wherein the flexible element (6, 7, 8) forms an integral part of the wedge-formed element ( See Figure 2 ).

In regards to claim 10, Henry shows a distance piece further comprising a connection element ( 4, 5 ) interconnecting the first and second wedge- formed elements ( 2, 3 ).

With regards to claim 11, Henry teaches a distance piece wherein the first and second wedge-formed elements ( 2, 3 ) and the connection element ( 4, 5 ) are made of the same material (integrally formed as shown in Figure 2 ).

Regarding claim 12, Henry sets forth a distance piece wherein the first and second wedge-formed elements ( 2, 3 ) and the connection element ( 4, 5 ) are made as a one-piece component.

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In regards to claim 13, Henry discloses a distance piece wherein the first and second wedge-formed elements ( 2, 3 ) and the connection element ( 4, 5 ) are made of a polymer-based material, such as a plastic material ( Column 4, line 44 ).

With respect to claim 14, Henry teaches a distance piece further comprising user operable hand grips ( as mounting plate 1 and wedges 2 and 3, can used as a gripping surface ) for assisting the user of the distance piece in engaging the first and second wedge-formed elements.

Regarding claim 15, Henry shows a distance piece wherein the second wedge-formed element ( 2 ) adapted to receive a nail of the first wedge-formed element ( 3 ), the slit being arranged as a through-going opening in the surface comprising the friction increasing means (Column 5, lines 4 – 9).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henry ( US 6,018,916 ).

Henry discloses a distance piece as stated in paragraph 2 above.

Henry does not disclose the flexible element being separate from the wedge formed element as stated in claim 9.

In regards to claim 9: Henry discloses a distance piece wherein the flexible element is integral to the wedge formed element. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the flexible element being separate from the wedge formed element, since it has been held that forming in two pieces an article which has formerly been formed in one piece involves only routine skill in the art. **Howard v. Detroit Stove Works**, 150 U.S. 164 ( 1893 ).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe-McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jinhee Lee can be reached on (571) 272-1977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YGM  
May 21, 2010

/Yaritza Guadalupe-McCall/  
Primary Examiner, Art Unit 2841